



1 TOURISM, ARTS AND HERITAGE CABINET

2 Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 2:030. Commercial guide license.

5 RELATES TO: KRS 150.170, 150.412, 164.772

6 STATUTORY AUTHORITY: KRS 150.025, 150.175(11), 150.190

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department
8 to promulgate administrative regulations to establish open seasons for the taking of
9 wildlife, to regulate bag limits and methods of take, and to make these requirements
10 apply statewide or to a limited area. KRS 150.175(11) authorizes the department to issue
11 a commercial guide license, which authorizes the holder to guide hunting and fishing
12 parties. KRS 150.190 authorizes the department to ensure that an applicant for a
13 commercial guide license is qualified to act as a commercial guide. This administrative
14 regulation establishes the requirements for a commercial guide license [~~and a guide~~
15 ~~helper~~].

16 Section 1. Definitions. (1) "Commercial guide" means a person who advertises, or
17 offers services for remuneration, to aid others in taking wildlife, excluding classroom
18 instruction or seminars.

(2) "Fishing guide helper" means a person who assists a commercial guide and is in the same boat or is directly alongside of the commercial guide if standing on a stream or river bank and while guiding others in the taking of fish.

~~[(3) "Hunting guide helper":~~

~~(a) Means a person who is acting on behalf of a commercial guide license holder, is registered with the department, and whose actions in the field assist in the taking of game animals; and~~

~~(b) Does not include a person assisting only in the recovery and removal of dead game, or tracking wounded game.]~~

Section 2. Commercial Guide License Requirements and Application. (1) A person shall possess a valid Kentucky commercial guide license in order to commercially guide others in the taking of wildlife.

(2) A commercial guide license shall be valid from March 1 through the last day of February.

(3) An applicant for a commercial guide license shall:

(a) Be eighteen (18) years of age or older;

(b) Have not been convicted of any state or federal fish or wildlife violation during the previous three (3) years;

(c) Have not been convicted of a felony;

(d) Possess a valid fishing license and trout permit if applicable; and

1 (e) Possess a valid hunting license and all applicable game permits.

2 (4) An elk permit shall not be required to be purchased by a commercial guide [or
3 hunting guide helper] in order to guide clients in the taking of elk.

4 (5) Except as established in subsection (6) of this section, in order to obtain a
5 commercial guide license, a person shall submit to the department:

6 (a) A completed Commercial Guide License Application Form to the Director's Office,
7 Division of Law Enforcement, #1 Sportsman's Lane, Frankfort, Kentucky 40601;

8 (b) A Law Information Network of Kentucky National Crime Information Center
9 (LINK/NCIC) background check obtained through the Kentucky State Police;

10 (c) Proof of a valid and up to date certification in:

11 1. Cardiopulmonary resuscitation (CPR); and

12 2. First aid;

13 (d) Proof of completion of a boater education course upon applying for a commercial
14 guide license for fishing in a boat; and

15 (e) Proof of completion of a hunter education course upon applying for a commercial
16 guide license for hunting. A commercial guide applicant who guides hunters by boat
17 shall also submit proof of completion of a boater education course[; and]

18 [~~(f) A ten (10) dollar registration fee for each hunting guide helper to be used by the~~
19 ~~commercial guide~~].

20 (6) A commercial guide applicant who possesses a valid United States Coast Guard

1 Captain's License, or "six pack", and will guide on a United States Coast Guard regulated
2 waterway may submit a copy of this license in lieu of the boater education course
3 requirements established in subsection (5)(d) of this section and in lieu of the CPR and
4 first aid requirements, as established in subsection (5)(c) of this section, upon applying
5 for a commercial guide license.

6 (7) While guiding, a commercial guide shall have in possession all required licenses
7 and permits.

8 (8) While guiding on private land, a commercial guide shall provide at the request of
9 a conservation officer a name and phone number of the person granting the guide
10 permission to be on the property.

11 (9) A commercial guide shall not facilitate, promote, or assist a client in the violation
12 of any state or federal fish and wildlife law or regulation.

13 Section 3. Guide Helper. (1) A commercial fishing guide may utilize fishing guide
14 helpers [~~and hunting guide helpers~~].

15 (2) A fishing guide helper shall have in possession while assisting a commercial guide
16 a valid Kentucky fishing license and applicable permits.

17 ~~(3) [A hunting guide helper shall have in possession while assisting a commercial~~
18 ~~guide:~~

19 ~~(a) A valid Kentucky hunting license and applicable game permits;~~

20 ~~(b) Proof of completion of a hunter education course;~~

1 ~~(c) Proof of completion of a boater education course if helping a commercial guide~~
2 ~~by boat; and~~

3 ~~(d) A hunting guide helper certification card.~~

4 ~~(4) Effective March 1, 2016, a hunting guide helper shall be required to provide proof~~
5 ~~of a valid and up-to-date certification in:~~

6 ~~(a) Cardiopulmonary resuscitation (CPR); and~~

7 ~~(b) First aid.~~

8 ~~(5) A hunting guide helper shall be registered with the department by the licensed~~
9 ~~commercial guide he or she represents.~~

10 ~~(6) A hunting guide helper shall:~~

11 ~~(a) Be at least eighteen (18) years old;~~

12 ~~(b) Not be convicted of a state or federal fish or wildlife violation during the previous~~
13 ~~three (3) years; and~~

14 ~~(c) Not have been convicted of a felony.~~

15 ~~(7)] A commercial fishing guide [license holder] shall be responsible for any violation~~
16 ~~of this administrative regulation by a helper who is registered by the commercial guide.~~

17 Section 4. Commercial Guide License Prohibitions and Revocation. (1) A commercial
18 guide or guide helper shall not participate in the taking of fish or game beyond the bag
19 limit or creel limit of the person or persons being guided, except that a commercial
20 guide or guide helper may take a daily bag or creel limit of fish or game while guiding.

(2) The department shall revoke and not renew the commercial guide license [~~or hunting guide helper certification,~~] for a period of three (3) years~~[one (1) year]~~, of a person convicted of any state or federal fish or game violation.

(3) The department shall permanently revoke the commercial guide license [~~or hunting guide helper certification]~~ of a person convicted of a felony.

(4) An individual whose commercial guide license [~~or hunting guide helper certification]~~ has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B within fifteen (15) days of receipt of the notice of revocation or denial.

Section 5. Incorporation by Reference. (1) "Commercial Guide License Application Form", 2019~~[2016]~~ edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Approved by the Fish and Wildlife Commission



Rich Storm, Commissioner
Department of Fish and Wildlife Resources



Don Parkinson, Secretary
Tourism, Arts and Heritage Cabinet

Date: _____

4/11/19

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2019, at 9:00 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation through May 31, 2019.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Mark Cramer
Department of Fish and Wildlife Resources
Arnold L. Mitchell Building
#1 Sportsman's Lane
Frankfort, Kentucky 40601
(502) 564-3400 FAX (502) 564-0506
Email: fwpubliccomments@ky.gov

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

301 KAR 2:030. Commercial guide license.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone: 502-564-3400

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for commercial hunting and fishing guides.

(b) The necessity of this administrative regulation: This regulation is necessary to establish minimum regulatory standards and qualifications for commercial guides.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply statewide or to a limited area. KRS 150.175(11) authorizes the department to issue a commercial guide's license, which authorizes the holder to guide hunting and fishing parties. KRS 150.190 authorizes the department to ensure that an applicant for a commercial guide license is qualified to act as a commercial guide.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing the minimum standards and qualifications for commercial guides and ensures that an applicant is qualified to act as a commercial guide.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment eliminates the hunting guide helper classification, holds commercial guides accountable for illegal activities by their clients in which the guide has assisted or facilitated, increases the revocation period from 1 year to 3 years for any state or federal fish and wildlife violation, and modifies the commercial guide license application form that is incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to strengthen the requirements for commercial guides, to ensure that anyone assisting or facilitating hunting clients has a valid commercial guide license, and to increase the revocation period to deter illegal activity.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c)

above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals who commercially guide clients will be affected by this amendment. For the 2018-19 license year, a total of 317 commercial guide licenses were sold. There were also 128 hunting guide helpers listed on the commercial guide applications.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Commercial hunting guides will no longer be able to employ guide "helpers" unless the "helpers" become licensed commercial guides. A commercial guide who is convicted of any state or federal fish and wildlife violation will have their license revoked for a period of 3 years. All guide applicants will also need to fill out the amended commercial guide application.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The commercial guide license will continue to cost \$150 for residents and \$400 for nonresidents.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will not be any benefits to the entities identified in question (3).

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The cost to the department to implement this administrative regulation amendment should be negligible initially, except that there will be an increase in the number commercial guide licenses to process.

(b) On a continuing basis: The amendment will not cost the department more on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

It will not be necessary to increase the commercial guide license fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The administrative regulation did not establish any fees, but it indirectly increased fees for current hunting guide helpers if they choose to purchase a commercial guide license.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied because all individuals wishing to be a commercial guide are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

301 KAR 2:030. Commercial guide license.

Contact Person: Mark Cramer

Email: mark.cramer@ky.gov

Phone number: (502) 564-3400

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The department's Divisions of Fisheries, Wildlife, and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 150.025, 150.175(11), and 150.190.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? It is unknown how many hunting guide helpers will end up obtaining a commercial guide license, but if every one of them did purchase a guide license, then it would generate at least an additional \$17,000 initially.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? It is unknown how many hunting guide helpers will end up obtaining a commercial guide license, but if every one of them did purchase a guide license, then it would generate at least an additional \$17,000 in subsequent years based on the license numbers from 2018-19.

(c) How much will it cost to administer this program for the first year? It will not cost more to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? It will not cost more to administer this program during subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

Summary of Material Incorporated by Reference

and

Summary of Changes to Material Incorporated by Reference

Summary of Material Incorporated by Reference

- (1) The "Commercial Guide License Application Form", 2019 edition, is a three-page, single-sided form that commercial guide license applicants must complete and submit to the department in order to become a commercial hunting or fishing guide.

Summary of Changes to Material Incorporated by Reference

- (2) The "Commercial Guide License Application Form", 2019 edition, is a three-page, single-sided form that commercial guide license applicants must complete and submit to the department in order to become a commercial hunting or fishing guide. This form replaces the "Commercial Guide License Application Form", 2016 edition. The original form was amended to remove the Hunting Guide Helper Registration section on the second page. Following the asterisk in bold print on the second page, the following phrase was also deleted: "AND each person registered as a hunting guide helper". In the upper right hand corner of each page, "2019 Edition" was inserted. On the second page, after "I plan to be a fishing guide", "Species: _____" was inserted. On the second page, after "I plan to be a hunting guide", "Species: _____" was inserted. On the second page, after "I plan to be a hunting guide", "I plan to guide for" was deleted, and "both" was capitalized. On the second page, after "both hunting and fishing", "Species _____" was inserted. On the second page, in the NCIC/LINK paragraph, delete "and hunting guide helpers". In the Hunter Education Certificate sentence, delete "and hunting guide helpers". In the CPR Certification sentence, delete "and hunting guide helpers". In the First Aid Certification sentence, delete "and hunting guide helpers".